

# **Notice of Allowability**

**Application No.**

09/714,183

**Examiner**

Roy M. Punnoose

**Applicant(s)**

TAKEUCHI, HITOSHI

**Art Unit**

2877

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to election letter received on Aug 06, 2003
  2. ☒ The allowed claim(s) is/are 1-9, 27-30, 33 and 35.
  3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
  4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) ☐ All b) ☐ Some\* c) ☒ None of the:
      1. ☒ Certified copies of the priority documents have been received.
      2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
  - \* Certified copies not received: \_\_\_\_\_.
  5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
    - (a) ☐ The translation of the foreign language provisional application has been received.
  6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**
7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  8. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No. \_\_\_\_\_.
    - (b) ☐ including changes required by the proposed drawing correction filed \_\_\_\_\_, which has been approved by the Examiner.
    - (c) ☒ including changes required by the attached EXAMINER'S Amendment / Comment or in the Office action of Paper No. 031130.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the margin according to 37 CFR 1.121(d).

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## **Attachment(s)**

- |  |   |
|--|---|
| 1 <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                   | 5 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)          |
| 2 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                          | 6 <input type="checkbox"/> Interview Summary (PTO-413); Paper No. _____.            |
| 3 <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No. 5 | 7 <input type="checkbox"/> Examiner's Amendment/Comment                             |
| 4 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material       | 8 <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
|  | 9 <input type="checkbox"/> Other  |

## **DETAILED ACTION**

### ***Response to Election***

1. Applicant's election without traverse of Group I (claims 1-9, 27-30, 33 and 35) in response letter received on August 06, 2003 is acknowledged. Applicant has the right to file one or more divisional applications regarding the non-elected inventions.

### **EXAMINER'S AMENDMENT**

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The examiners amendment was done to cancel non-elected claims, and also to insert "Prior Art" label to Figure 9 of the drawings.

The application has been amended as follows:

- a. Cancel claims 10-26, 31-32 and 34.
  - b. Insert the label --Prior Art-- to Figure 9.
3. In order to avoid abandonment of the application, applicant must make the above drawing change and file a new formal drawing.

### ***Allowable Subject Matter***

4. Claims 1-9, 27-30, 33 and 35 are allowed.
5. Claims 1, 3, 6, 8, 27, 29 and 35 are allowed because the prior art of record, taken alone or in combination, fails to disclose or render obvious an apparatus and method for measuring

aberration in which aberration is measured on the basis of detected light positions of converged light beams, in combination with the rest of the limitations of the respective claims.

6. Claims 2, 4-5, 7, 9, 28, 30 and 33 are allowed because their limitations are dependent on limitations of independent claims 1, 3, 6, 8, 27 and 29 respectively or an intermediate claim.

7. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

#### ***Conclusion***

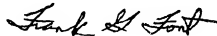
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Examiner Roy M. Punnoose** whose telephone number is **703-306-9145**. The examiner can normally be reached on 9:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the applicant can reach his **Supervisory Patent Examiner, Frank G. Font**, at (703) 308-4881.

The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and 703-872-9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-0530.

Roy M. Punnoose  
Patent Examiner  
Art Unit 2877  
November 30, 2003



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Mr. Frank G. Font  
Supervisory Patent Examiner